IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

-

WRIT PETITION NO : 28565 of 1995

Between:

1 B.V. Subbareddy S/o B.S. Reddy
R/o Gudur, Nellore Dist.
2 P. Venkateswarlu Reddy S/o Kotireddy
R/o Gudur, Nellore Dist.
3 D. Ramalinga Reddy S/o Chenchu reddy
R/o Gudur, Nellore Dist.
4 A. Radhakrishnaiah S/o China Venkata Subbaiah
R/o Gudur, Nellore Dist.
5 P. Sivakumar Reddy S/o Venkat REddy
R/o Gudur, Nellore Dist.

..... PETITIONERS

AND

1 The District Collector, Nellore at Nellore
2 The Revenue Divisional Officer, Gudur at Gudur
Nellore District
3 The Mandal Revenue Officer, Chilakur (M), Chilakur
4 The Village Administrative Officer, Ballavolur Chillakur (M), Nellore Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to call for the records relating to and in connection with the impugned notice dt: 15-12-1995 in proceedings Nos Rc.B1/7763/95 and the action of the respondents in interfering with the conduct of mining activities of the petitioners over a lawfully

assigned mines as illegal unconstitutional and voilative of principles of natural Justice

Counsel for the Petitioner: MR.T.JAGDISH

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

ORDER:

Questioning the action of the second respondents in issuing notice dated 15-12-1995 in proceedings Nos. RC B1/7763/95 directing the owners of the vehicle (lorry) bearing No. AP 26T 1197 to produce the vehicle before Motor Vehicles Inspector, Gudur with all connected records on 16.12.1995 before 10-00 a.m., the present writ petition is filed.

The facts that led to filing of this petition in nut shell are as follows:

Petitioners are the Mining lease holders for conducting mining operation for excavating silica sand over the areas assigned to them situate in Sy. No. 515, 515/2 of Ballavolu and also situate in Sy.No.256/1P of Vellapalem village, Nellore District and they are conducting the mining operations by paying royalty, seignorrage fee etc. While so, in November 1995, at the instance of the respondents herein who are the revenue authorities, the Village Administrative Officer of both the villages raised objections for passage of vehicles carrying the mineral excavated from the mines and also demanded huge amount for giving permission to conduct the mining operations. Though the matter was brought to the notice of the respondents, no action has been taken. Instead of warranting the V.A.O, for the said interference, the Revenue Divisional Officer, Gudur has issued the impugned notice dt.15-12-1995 requiring the petitioners to remove the vehicle-carrying mineral from the mines on

the ground of an alleged commotion in the village and further directed to produce the vehicle before the Motor Vehicle Inspector, Gudur. Neither the V.A.O, nor the revenue officials are competent to interfere with the conducting of mining operations by the petitioners. The only competent authority is the Assistant Director, Mines and Geology, Nellore. Thus, the impugned notice and action of the respondents is illegal. Hence, the writ petition.

D. Radha Rani, for T. Jagadish, learned counsel appearing on behalf of the petitioners submits that the respondents, who are the revenue officials, have no jurisdiction to issue the notice impugned. In fact, the competent authority to interfere with the lawfully conducted mining activity by the petitioners is the Assistant Director, Mines & Geology, Nellore and he alone has got power to seize the vehicles. Under the above circumstances, the impugned notice and action of the respondents do not sustain and the notice is liable to be quashed.

Per contra, the learned Government Pleader for Revenue appearing on behalf of the respondents submitted that according to his instructions the petitioners have laid a private road for transporting the silica sand from the mines of Ballavolu and Vellapalem villages and as there was a law and order problem in the said villages for keeping the vehicle there and transporting the silica, the Revenue Divisional Officer, Gudur had to necessarily issue the directions requiring to produce the vehicle before Motor Vehicles Inspector, Gudur, along with connected records on 16.12.1995 and hence, under the above circumstances, the present writ petition is not sustainable and is liable to be dismissed.

I have heard both sides and perused the material available on record. As seen from the record, it is to be noted that the order under challenge is only a notice issued by the second respondent directing two persons to remove the vehicle used for transporting the silica from the spot and further to produce the vehicle before Motor Vehicle Inspector, Gudur, with all connected records on 16-12-1995. In view of the fact that since it is only a notice, the petitioners ought to have submitted a reply to the impugned notice. Further, contradicting the allegation of law& order problem as stated by the respondents, the petitioners failed to place any material before this Court to show that there was no law& order problem in keeping the vehicles there for

transporting the silica. In that view of the matter and in the absence of any such material, I am of the view that the impugned notice needs no interference.

Accordingly, the writ petition is dismissed. The petitioners can produce the records before the Motor Vehicle Inspector, Gudur in pursuance of the impugned notice if they are so desirous. No costs.

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T. MEENA KUMARI, J

Dt 7-4-2005

Kvrk

To

1 The District Collector, Nellore at Nellore
2 The Revenue Divisional Officer, Gudur at Gudur
Nellore District
3 The Mandal Revenue Officer, Chilakur (M), Chilakur
4 The Village Administrative Officer, Ballavolur Chillakur (M), Nellore Dist.

5 Two CCs to GP for Revenue, High Court Buildings, Hyderabad(OUT)

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*Form-NIC-OGS/WP{**VVS**}*

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 28565 of 1995

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07th April 2005